

EXHIBIT 1

SHAFER DEPOSITION

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION
CASE NO. 6:08-3980-GRA

CONFIDENTIAL

HILL HOLLIDAY CONNORS COSMOPULOS,
INC., d/b/a ERWIN-PENLAND,

Plaintiffs,

DEPOSITION UNDER
ORAL EXAMINATION
OF
ANDREW SHAVER

-vs-

JEFFREY GREENFIELD and 1st
APPROACH, LLC,

Defendants, and
Third-Party
Plaintiffs,

-vs-

CELLICO PARTNERSHIP d/b/a VERIZON
WIRELESS, and JOSEPH A. ERWIN,
Third-Party
Defendants.

TRANSCRIPT of the deposition of the witness,
called for Oral Examination in the above-captioned
matter, said deposition being taken pursuant to the
Superior Court Rules of Practice and Procedure by
and before CHRISTINA LYNN HANSEN, a Notary Public
and Certified Court Reporter of the State of New
Jersey, at THE DOLCE HOTEL IN BASKING RIDGE, 300
North Maple Avenue, Basking Ridge, New Jersey, on
Tuesday, December 1, 2009, commencing at
approximately 4:52 in the afternoon.

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JOB # 35633

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1	A. I worked at Mercedes-Benz.	1 implement for Verizon Wireless.
2	Q. Okay. What did you do at Mercedes?	2 Q. Did they present it orally or was it
3	A. Regional marketing job.	3 by e-mail?
4	Q. Okay.	4 A. Orally.
5	A. Similar?	5 Q. Were you at the presentation?
6	Q. Similar?	6 A. I was.
7	A. Uh-huh.	7 Q. And who was there on behalf of
8	Q. What did you do before that?	8 Erwin-Penland?
9	A. I was in New Jersey Mercedes-Benz.	9 A. The only two people I know for sure
10	And before that I was in advertising.	10 were Joe Erwin and Allen Bosworth.
11	Q. Okay. And before -- what was the	11 Q. Okay. Do you remember if there was
12	advertising job before Mercedes?	12 anybody else there?
13	A. I was account management.	13 A. I do not.
14	Q. Okay. And before account management,	14 Q. The only people that you can remember
15	were you in school?	15 that were not Verizon people --
16	A. Uh-huh.	16 A. Correct.
17	Q. Okay. And how far did you get in	17 Q. -- would be Allen Bosworth and Joe
18	school?	18 Erwin?
19	A. Four years.	19 A. Correct.
20	Q. Okay.	20 Q. Do you know Jeff Greenfield at all?
21	A. Under-grad.	21 A. I do not.
22	Q. Under-grad. Where did you go?	22 Q. Have you seen any recent picture of
23	A. Gettysburg College.	23 Jeff Greenfield?
24	Q. Okay. What did you major?	24 A. I have not.
25	A. Psychology.	25 Q. Do you have -- and you have no
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1	Q. Kind of fits.	1 recollection of him whatsoever?
2	All right. So tell me -- you were	2 A. Nope.
3	involved with the initial presentation of the How	3 Q. Have you ever dealt with him?
4	Sweet the Sound program. Is that correct?	4 A. No.
5	MS. MCKINNEY: Object to form.	5 Q. Have you ever spoken to him?
6	MR. CHROMY: Object.	6 A. No.
7	Q. Just so you're clear, the attorneys	7 Q. Have you ever received any e-mail
8	are going to object --	8 from him?
9	A. Yeah.	9 A. No.
10	Q. -- a lot due to my inarticulate	10 Q. Ever been copied on an e-mail in
11	question. If you understand it, you're more than	11 which he was copied on?
12	welcome to answer it. If you need me to clarify it,	12 A. Not to my knowledge.
13	please ask me and I'm happy to.	13 Q. Is it your understanding that How
14	A. Can you clarify?	14 Sweet the Sound program is -- was created and -- was
15	Q. Sure.	15 created by Erwin-Penland alone?
16	Verizon Wireless eventually came can	16 A. I don't know.
17	run a program called How Sweet the Sound. Is that	17 MS. MCKINNEY: Object to form.
18	true?	18 Q. Okay. Do you know that Erwin-Penland
19	A. Yes.	19 sued Jeff Greenfield?
20	Q. Do you know how that began?	20 A. I have come to know that.
21	A. Yes.	21 Q. Okay. And I don't want do know
22	Q. Can you tell me?	22 anything the attorneys have told you in preparation
23	A. The original proposal came from	23 for today or in whatever other consultations you've
24	Erwin-Penland, and they proposed it to us in the	24 been involved. It's privileged, and I don't want
25	south as a concept that we would potentially	25 you to tell me any of that. I'm just asking your

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<p>1 general understanding of the lawsuit beforehand, if 2 you had any.</p> <p>3 Were you aware of anybody's claims to 4 the creation of the How Sweet the Sound concept?</p> <p>5 MS. McKINNEY: Object.</p> <p>6 A. I was not.</p> <p>7 Q. Does it surprise you to that 8 somebody's making such a claim?</p> <p>9 MS. McKINNEY: Object.</p> <p>10 MR. CHROMY: Objection.</p> <p>11 A. I don't know.</p> <p>12 Q. Okay.</p> <p>13 (Whereupon there was a discussion off the record.)</p> <p>14 Q. Tell me about that initial 15 presentation. What do you recall?</p> <p>16 A. I -- they came in, they met with Joe 17 Saracino and myself, presented the concept, we had 18 some dialogue around what we thought about the 19 concept, we talked about next steps. And that was 20 the initial meeting.</p> <p>21 Q. What was Joe's job title at the time?</p> <p>22 A. Vice-president of marketing, I believe.</p> <p>24 MR. MUCKENFUSS: Just for the record, 25 Robert Muckenfuss here. How are you doing?</p>	<p>1 try and penetrate, you know, African-American 2 segment. We were under-indexed against that segment 3 as Verizon wireless as a business, and it seemed 4 like a good idea to try and expose our brand to that 5 segment.</p> <p>6 Q. Okay. And this seemed like a good 7 way to do it?</p> <p>8 A. Yeah.</p> <p>9 Q. Was there any part that gave you 10 concern about the program as it was initially 11 presented?</p> <p>12 MS. McKINNEY: Object to the form.</p> <p>13 A. Not concern.</p> <p>14 Q. Okay. Were you curious about any 15 aspect of it that you wanted to see further fleshed 16 out?</p> <p>17 A. We had said -- our feedback to them 18 on the idea was that we thought it was a big idea, 19 but it was too big of an idea for our jurisdiction 20 in the south. We didn't have budget, we didn't have 21 scope to be able to support an idea like that. But 22 we really liked the idea in its entirety. There 23 were certain parts we thought we could execute; 24 locally, but there were certain parts that were 25 national in scope that we could not.</p>
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<p>1 MR. DOOLITTLE: Good. Good to see 2 you again.</p> <p>3 MR. MUCKENFUSS: Okay.</p> <p>4 MR. DOOLITTLE: Long time, no see.</p> <p>5 Q. Oh, so yeah. They came and presented 6 the program. Was it power point?</p> <p>7 A. I believe so.</p> <p>8 Q. Do you remember where?</p> <p>9 A. I don't. I don't know the name of 10 the -- it was a conference room.</p> <p>11 Q. In --</p> <p>12 A. In Alfareda. Sorry.</p> <p>13 Q. At Verizon's facilities?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Yeah. I don't care which 16 conference room. But I appreciate you trying to 17 remember.</p> <p>18 Do you remember if it was winter or 19 summer?</p> <p>20 A. I don't recall.</p> <p>21 Q. Okay. What was your initial 22 impression of the How Sweet the Sound campaign idea?</p> <p>23 A. Positive.</p> <p>24 Q. In what way?</p> <p>25 A. We had discussed about our need to</p>	<p>1 Q. Do you remember what the parts that 2 you thought you could do locally yourself?</p> <p>3 A. The grassroots, the event based 4 things. So the actual event that would be the 5 choirs singing locally.</p> <p>6 Q. Okay.</p> <p>7 A. And then having some sort of 8 competition around that.</p> <p>9 Q. Okay. And the national part of it 10 that you wouldn't be able to handle?</p> <p>11 A. The T.V., the American Idol version 12 of the T.V. idea.</p> <p>13 Q. Okay. And do you -- todays 2009 How 14 Sweet the Sound concept, do you envision it to be --</p> <p>15 A. I'm not familiar with it.</p> <p>16 Q. Not familiar with it at all?</p> <p>17 (Whereupon there was a discussion off the record.)</p> <p>18 MR. MUCKENFUSS: Try not to talk over 19 --</p> <p>20 MR. DOOLITTLE: Yeah. I apologize.</p> <p>21 Q. Are you familiar with the 2009 How 22 Sweet the Sound concept?</p> <p>23 A. I am not familiar with it.</p> <p>24 Q. Okay. What is your last involvement 25 in How Sweet the Sound campaign?</p>

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<p>1 A. It's Director of Marketing 2 Communications. So you ran all of the marketing 3 communication elements for the south.</p> <p>4 Q. I'm sorry. I forgot. I apologize. 5 Prior to the presentation that you 6 saw in 2006. Is that correct?</p> <p>7 MS. McKINNEY: Object.</p> <p>8 Q. You don't --</p> <p>9 A. I don't recall. If you're telling me 10 --</p> <p>11 Q. Yeah. I mean, I'm sorry. I don't 12 mean to insert words in your mouth.</p> <p>13 You think you saw or you were first 14 made aware of How Sweet the Sound by a presentation 15 given buy Allen Bosworth and Joe Erwin. Correct?</p> <p>16 A. Correct.</p> <p>17 Q. It was either 2006 or 2007, you're 18 not positive. Is that correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. Prior to that presentation, 21 what did you know about How Sweet the Sound?</p> <p>22 A. Nothing.</p> <p>23 Q. Did somebody invite you to the 24 meeting that day or was it something that was set up 25 ahead of time?</p>	<p>1 A. Well, no. I mean, I had heard that 2 the meeting was going to take place.</p> <p>3 Q. Okay. Do you know what the results 4 were of that meeting?</p> <p>5 A. I dont know what the net takeaway of 6 the meeting was.</p> <p>7 Q. Do you know whether or not Verizon 8 eventually decided to do the How Sweet the Sound 9 campaign?</p> <p>10 A. Well, eventually we ended up 11 executing a part of the How Sweet the Sound as an 12 event-based program.</p> <p>13 Q. Okay. And were you involved in the 14 Memphis --</p> <p>15 A. Yes.</p> <p>16 Q. -- How Sweet the Sound production?</p> <p>17 A. Right.</p> <p>18 Q. That was a -- was that a test market?</p> <p>19 A. No. I mean, at the time we had -- 20 they -- we said, 'We will go implement this program 21 if it's successful.' Obviously, we were hopeful 22 that it would be became national, but there were no 23 obligations to that.</p> <p>24 Q. Right.</p> <p>25 And when I say, "Test market," I</p>
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<p>1 A. Allen had told me that he -- that 2 Erwin-Penland had a big idea that they wanted to 3 come talk to us about, could I help set up a meeting 4 with Joe. And I said, "Sure." He didn't give me 5 any specifics.</p> <p>6 Q. And you had a prior relationship with 7 Allen at this point. Is that right?</p> <p>8 A. Yes.</p> <p>9 Q. So you trusted him that it was a good 10 idea to take to Joe. Is that right?</p> <p>11 A. Yeah.</p> <p>12 Q. Okay. Fair enough.</p> <p>13 He didn't let you down, did he?</p> <p>14 A. Nope.</p> <p>15 MS. McKINNEY: Object.</p> <p>16 Q. Okay. Once that was -- so then you 17 had the presentation, then Joe presumably got him a 18 meeting and -- at Verizon headquarters?</p> <p>19 A. The next step's were that's what was 20 going to happen.</p> <p>21 Q. Okay. Do you know whether or not 22 that actually occurred?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And you know that because 25 eventually Verizon began to air the program or --</p>	<p>1 mean, you're running it in a limited area. Is that 2 true?</p> <p>3 A. Yes.</p> <p>4 MR. MUCKENFUSS: Objection.</p> <p>5 Q. Okay. And you ran it just in the 6 Memphis location?</p> <p>7 A. Correct.</p> <p>8 Q. And your idea was hopefully if it 9 worked, you would -- hopefully it would go to other 10 locations as well. Is that true?</p> <p>11 MS. McKINNEY: Object.</p> <p>12 A. There were a lot of criteria to 13 evaluate. But, yes, in the end if it was 14 successful, based on those criteria, we would want 15 to do it more.</p> <p>16 Q. Right.</p> <p>17 Were you involved in assessing 18 whether or not it was successful?</p> <p>19 A. No.</p> <p>20 Q. By that time you'd already gone to 21 T.V.?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. Tell me what your involvement 24 was with the Memphis airing of How Sweet the Sound, 25 if you will.</p>